

1 Kenneth Baker  
2 1002 W. Strahan Dr.  
3 Tempe, AZ 85283  
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8 IN THE SUPREME COURT

9  
10 STATE OF ARIZONA  
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13 In re the Matter of:  
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15 PETITION TO AMEND RULE 74 )  
16 OF THE RULES OF FAMILY LAW ) Supreme Court No. R-15-0006  
17 PROCEDURE )  
18 ) **COMMENT TO PROPOSED**  
19 **AMENDMENTS TO RULE 74, ARFLP,**  
20 **CONCERNING PARENTING**  
21 **COORDINATION**  
22 \_\_\_\_\_)  
23

24 The undersigned, a citizen of Maricopa County, formally submits the  
25 following comments. I annotated the Amended Petition in Appendix 1 in red  
26 lettering with strike-throughs for sections I believe should be changed and/or  
27 deleted.

28 My changes should would help address some of the original complaints  
29 brought up by the citizen's during the open forum. My changes basically improve  
30 the parenting coordinator's position as a facilitator and not another court appointed  
31 professional 'milking' uncommunicative parents for their money and discourages

1 'including' other professional's to 'assess' the parents. My changes also remove  
2 attorney's from communicating with the parenting coordinator directly. My  
3 changes also require that the parents KNOW the actual fees prior to agreeing the  
4 stipulation agreement – as cost has been the factor driving this rule change.

5  
6 RESPECTFULLY SUBMITTED this 15th day of June, 2015.

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8  
9 By /s/ Kenneth Baker  
10 Citizen

## APPENDIX 1

1 **A. Purpose of Parenting Coordination.** Parenting coordination is a child-focused  
2 alternative dispute resolution process. The overall objective of parenting  
3 coordination is to assist parents with implementation, compliance, and timely  
4 conflict resolution regarding their parenting plan, in order to protect and sustain  
5 safe, healthy, and meaningful parent-child relationships.

6 **B. Appointment of a Parenting Coordinator.** The court may appoint a third  
7 party as a parenting coordinator in proceedings under Title 25, A.R.S., at any time  
8 after entry of a legal decision-making or parenting time order only if each parent  
9 has agreed to the appointment by written stipulation or orally on the record in open  
10 court.

11 The stipulation must state:

- 12 1. that each parent understands how the parenting coordinator bills for services  
13 and the professional hourly rate and the clerical hourly rate that will be charged  
14 and that the parents can afford the parenting coordinator's services and if  
15 insurance will be used to cover costs;
- 16 2. the manner in which the parenting coordinator's fees will be allocated  
17 between the parents;
- 18 3. the method by which the parenting coordinator will be selected and whether  
19 cost will be used as a factor or the name of the agreed-upon parenting  
20 coordinator and whether insurance will be used to cover costs;

1 4. that the parents agree to the release of documents the parenting coordinator  
2 deems necessary to the performance of the parenting coordinator's services to  
3 aid in the specific conflict resolution brought before the parenting coordinator  
4 (the release agreement is not meant for 'fishing expeditions' to investigate  
5 general behavior(s) of either parent);

6 5. the term of the appointment; and

7 6. that the parents agree to be bound by decisions made by the parenting  
8 coordinator that fall within the scope of the parenting coordinator's authority  
9 and relate to ONLY issues submitted to the parenting coordinator for decision;  
10 and

11 7. that parents acknowledge parenting coordination can be provided through  
12 the court's conciliation services.

13 Nothing in this rule is intended to prevent parents from requesting, or a court from  
14 appointing, parent coordination assistance through the court's conciliation court  
15 services, if available. Parents obtaining parenting coordinator services through the  
16 court's conciliation court services must agree to parts 4 through 6 above.

17 **C. Selection of a Parenting Coordinator.** A parenting coordinator appointed by  
18 the court must qualify as a parenting coordinator under paragraph D. A person  
19 appointed as a parenting coordinator cannot serve in any other function or role in  
20 the case. When each parent and the parenting coordinator agree, a person who is

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serving or has already served in a legal, treatment, evaluative, or therapeutic role in the case can be appointed as the parenting coordinator.

**D. Persons Who Can Serve as a Parenting Coordinator.** The following persons can serve as a parenting coordinator:

1. ~~an attorney who is licensed to practice law in Arizona;~~
2. a psychiatrist who is licensed to practice medicine or osteopathy in Arizona;
3. a psychologist who is licensed to practice psychology in Arizona;
4. a person who is licensed to practice independently by the Arizona Board of Behavioral Health Examiners;
5. professional staff of a court's conciliation services department; or
6. a person with education, experience, and expertise who is deemed qualified by the court's presiding judge or a designee.

The court can set additional requirements for service as a parenting coordinator.

**E. Term of Service.** The term of the parenting coordinator will be designated in the order of appointment.

**1. Initial Term.** A parenting coordinator's initial term cannot exceed one year. ~~unless each parent and the parenting coordinator agree to a longer term.~~

**2. Reappointment.** The parenting coordinator cannot be reappointed at the end of the term unless each parent and the parenting coordinator agree to the

1 reappointment in writing or orally (w/ written signatures) on the record in open  
2 court.

3 **3. Replacement of the Parenting Coordinator.** Both parents can agree to  
4 replace the existing parenting coordinator by stipulating to the replacement in  
5 writing or orally on the record in open court. The stipulation that replaces the  
6 parenting coordinator is subject to the statements required in paragraph B,  
7 above.-

8 **4. Resignation.** The parenting coordinator can resign upon notice to each  
9 parent and order of the court.

10 **5. Discharge.** Both parents can jointly agree to discharge the parenting  
11 coordinator during the term of appointment. If only one parent wishes to  
12 discharge the parenting coordinator, that parent must file a motion with the  
13 court that establish good cause for the requested relief. Simply disagreeing with  
14 one or more of the parenting coordinator's decisions does not constitute good  
15 cause for discharging the parenting coordinator; a formal complaint submitted  
16 to the Parenting Coordinator's applicable licensing or regulatory board by either  
17 parent does constitute good cause.

18 **F. Fees.**

19 **1. Disclosure of Fees.** The parenting coordinator must fully disclose all fees  
20 and charges to each parent before the stipulation agreement is ordered and

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services requiring payment can begin. The hourly fees and charges must be known to the parties prior to the stipulation agreement being ordered by the court.

**2. Adjustment to Allocation of Fees by Parents.** Both parents may agree to a change in the allocation of fees by amending the agreement in writing with the parenting coordinator. Without the parents' agreement, a parenting coordinator cannot reallocate fees based on a change in a parent's financial circumstances.

**3. Sanctions and Reallocation of Fees.** In instances where one parent is using parenting coordinator services excessively or to harass the other parent, a parenting coordinator can recommend, as a sanction, an adjustment to the allocation of the parenting coordinator's fees. The parenting coordinator must submit a written recommendation to the court and each parent or counsel, if represented, explaining in detail the reason for the recommended fee reallocation. A hearing must be set to determine if the parties agree to the new allocation of fees moving forward.

**G. Confidentiality.** Parenting coordination is not a confidential process.

Therefore, the communications between the following are not confidential:

1. between each parent and the parenting coordinator;
2. between the child and the parenting coordinator;

1        3. between the parenting coordinator and other relevant parties to the parenting  
2        coordination process; and

3        4. with the court.

4        Counsel cannot attend parenting coordinator meetings with their client unless each  
5        parent and the parenting coordinator agree or if ordered by the court. ~~The parenting~~  
6        ~~coordinator can meet with counsel separately to obtain information relevant to the~~  
7        ~~issue before the parenting coordinator.~~ No Ex-Parte communications is allowed  
8        between the Parenting Coordinator and either Parties' attorney.

9        **H. Scope of Appointment and Authority.** The court order appointing the  
10       parenting coordinator must specify the scope of the appointment.

11       1. A parenting coordinator's scope of appointment can include:

12       a. ~~helping the parents identify disputed issues~~, reduce misunderstandings,  
13       clarify priorities, explore possibilities for compromise, develop methods of  
14       collaboration in parenting, and comply with legal decision-making authority  
15       and parenting time orders;

16       b. making decisions regarding implementation, clarification, and minor  
17       adjustments to parenting time orders;

18       c. making decisions on parenting challenges not specified in the parenting  
19       plan that the parents are unable to resolve. By way of example only, these  
20       challenges can include disagreements about: pick-up and drop-off locations,



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1 dates and times; holiday scheduling; discipline; health issues; personal care  
2 issues; school and extracurricular activities; choice of schools; and  
3 managing problematic behaviors;

4 d. interviewing and requesting documentation from anyone who has  
5 relevant information necessary to resolve the **SPECIFIC** matter currently  
6 before the parenting coordinator; and

7 e. ~~recommending that the court order the parents or child to participate in~~  
8 ~~aneillary services, to be provided by the court or third parties, including but~~  
9 ~~not limited to physical or psychological examinations or assessments,~~  
10 ~~counseling, and alcohol or drug monitoring and testing.~~

11 2. A parenting coordinator must attempt to facilitate agreement on disputed  
12 issues between the parents in a timely manner. If the parents are unable to  
13 reach agreement, the parenting coordinator will decide any disputed issues  
14 within the scope of the parenting coordinator's authority in a timely manner.

15 3. A parenting coordinator cannot make a decision that will:

16 a. affect child support, spousal maintenance, or the allocation of property or  
17 debt;

18 b. change legal decision-making authority, except as stated in paragraph I;

19 or

20 c. substantially change parenting time, except as stated in paragraph I.

**1 I. Emergency Authority and Procedure.**

2 1. If based upon the parenting coordinator's personal observation, the parenting  
3 coordinator determines that a parent's functioning is impaired and the parent is  
4 either incapable of fulfilling the court-ordered legal decision-making or  
5 parenting functions, or will expose the child to an imminent risk of harm, and it  
6 is in the best interest of the child to do so, a parenting coordinator is authorized  
7 to make an emergency change in the court's legal decision-making or parenting  
8 time orders.

9 2. When making an emergency decision, the parenting coordinator must notify  
10 the assigned judge and each parent or counsel, if represented, in writing by the  
11 next business day. The parenting coordinator must use a form substantially  
12 similar to the Parenting Coordinator's Report in Rule 97 of these rules. The  
13 report must include the reason for the emergency decision.

14 3. The court must hold a hearing on the emergency decision within 10 calendar  
15 days after receiving the parenting coordinator's emergency decision.

16 4. At the hearing, the court must approve and adopt, modify, or reject the  
17 parenting coordinator's emergency decision. The court must also decide what  
18 additional hearings, if any, are needed and set those additional hearings.

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1 **J. Report.** The parenting coordinator’s decision on an issue must be written in a  
2 form substantially similar to the Parenting Coordinator's Report in Rule 97 of these  
3 rules. The parenting coordinator must:

4 1. mail or transmit the report to the assigned judge—but not the clerk of the  
5 court—no later than five business days after receipt of all information necessary  
6 to make a decision; and

7 2. mail or transmit a copy of the report to each parent or counsel on the same  
8 day it is mailed or transmitted to the court.

9 **K. Court Action.** The court, upon receipt of the parenting coordinator’s report,  
10 must file the report. If the report contains confidential or private information, it  
11 must be filed in a manner that prevents the public from accessing the report,  
12 pursuant to Rule 13(D) of these rules.

13 Except as otherwise provided in paragraph I, upon receipt of the report, the court  
14 can do any of the following:

15 1. adopt the decision as an order of the court;

16 2. reject the decision and report in whole or in part as outside the scope of the  
17 parenting coordinator’s authority and affirm the current court order; or

18 3. set a hearing regarding the decision.

19 The court may use the Order Regarding Parenting Coordinator's Report in Rule 97  
20 of these rules for purposes of this paragraph.

1 **L. Objection.** Provided that the parenting coordinator acted within the scope of  
2 authority pursuant to this rule and the appointment order, the parenting  
3 coordinator's decision is binding. If a parent believes that the parenting  
4 coordinator's decision exceeds the scope of the parenting coordinator's authority,  
5 the parent may object to the parenting coordinator's decision by filing a pleading  
6 with the court entitled Objection. The objection must be filed within 10 business  
7 day of the receipt of the parenting coordinator's report. The objection must  
8 explain in detail the reasons why the parent believes the parenting coordinator  
9 exceeded the scope of authority and whether a hearing is requested on the parent's  
10 objection.

11 **M.Action on Parent's Objection.** If either parent files an objection, any court  
12 action will remain in effect pending resolution of the objection.

13 **N. Complaints about Unethical or Unprofessional Conduct by Parenting**  
14 **Coordinators.** Complaints about alleged unethical or unprofessional conduct by  
15 the parenting coordinator should be submitted to the parenting coordinator's  
16 applicable licensing or regulatory board. If the parenting coordinator is not subject  
17 to a licensing or regulatory board, the complaint should be brought to the court's  
18 attention.

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1 **O. Immunity.** The parenting coordinator has immunity in accordance with  
2 Arizona law as to all acts undertaken pursuant to and consistent with the  
3 appointment order of the court.

4 **P. Applicability.** No court is required to employ or use parenting coordinators; but  
5 in the event the court appoints a parenting coordinator, these rules apply.

6 **Effective date.** This rule applies to any appointment or reappointment of a  
7 parenting coordinator that occurs on or after the effective date of the 2016  
8 amendment of the rule. **Current Parenting Coordinator orders prior to 2016 can be**  
9 **updated to this rule if one party motions for the new rules to apply to their case.**